

Date of decision: April 11,1996

For Approval and Signature:

The Hon'ble Mr.Justice N.J.Pandya

The Hon'ble Mr.Justice A.R.Dave

1. Whether Reporters of Local Papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India,1950 or ..

thereunder?
5. Whether it is to be circulated to the Civil Judge?

Shri S.N.Shelat, L.A. for the appellant
Shri D.K.Mehta, L.A. for the respondents

Coram: N.J.Pandya & A.R.Dave,JJ.
April 11, 1996

ORAL JUDGMENT (Per N.J.Pandya,J.)

Party-in-person last time had requested that he be given help of a lawyer and therefore, the said party-in-person i.e. the respondent-original claimant was referred to the Legal Aid Committee and the said

Committee appointed Shri Mehta, an Advocate practising in this Court to represent him.

2. With the consent of the parties, the matter is taken up for final hearing.

3. In our opinion, the learned Judge, M.A.C.Tribunal No.3, Ahmedabad has not committed any error in granting compensation of Rs.53,500/- with interest at 12% per annum from the date of the application till realisation with proportionate cost.

4. On 19-4-1991 the petitioner was on his way towards Kalupur from Naroda side riding a moped. At about 1.45 p.m., he came near a fork on the road known as Omonagar Fata and a bus came from the rear and knocked him down. The claimant has claimed Rs.2 lakhs by way of compensation.

5. The usual defence of the bus driver being not negligent was taken and it was alternatively submitted that the deceased had contributed to the incident.

6. The learned Tribunal Judge held that the bus driver of the Ahmedabad Municipal Transport Service was responsible for the incident and therefore, proceeded to consider the question of compensation.

7. Respondent no.1, at the time of incident, was shown to be working in a Mill as a daily wager earning Rs.65/- per day which on the basis of 26 working days in a month, comes to Rs.1,800/- per month.

8. Against the bodily disability of 40%, the learned Judge has taken effect thereof at 20% in relation to the entire body as well as earning ability of the claimant and accordingly, has awarded Rs.23,500/- towards loss of income. Towards treatment and medicine, he has been awarded Rs.5,000/- and for pain, shock and suffering, he has been awarded Rs.15,000/-, Rs.10,000/- towards conveyance, attendants and Rs.8,000/- towards actual loss.

9. In our opinion, the said finding of the learned Judge cannot be faulted with and he has, in our opinion, keeping the circumstances of the case before him, awarded the said amount which, in no way can be said to be exaggerated or unwarranted for, looking to the circumstances of the case. In our opinion, therefore, the appeal deserves to be dismissed with no order as to costs.

10. The amount of Rs.25,000/- deposited with the Registry of this Court, be paid to the claimant on proper identification. The appellant shall deposit rest of the amount within a period of 8 weeks from today in the Tribunal and it shall be disbursed according to the order of the Tribunal. No order on Civil Application. Interim relief is vacated.
